# BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

| TAMMI WHEELER     | )                   |    |
|-------------------|---------------------|----|
| Claimant          | )                   |    |
| VS.               | )                   |    |
|                   | ) Docket No. 247,94 | 43 |
| SHAY PRODUCTIONS  | )                   |    |
| Respondent        | )                   |    |
| AND               | )                   |    |
|                   | )                   |    |
| UNKNOWN           | )                   |    |
| Insurance Carrier | )                   |    |

## ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish on April 6, 2000.

#### ISSUES

In a previous preliminary hearing Order, the ALJ found claimant was working as an employee for Shay Productions and as an independent contractor for Preferred Siding. Claimant has alleged she developed carpal tunnel syndrome from the part-time work she did for both Shay and Preferred. The ALJ also ordered Shay to pay 20 percent of the medical expenses. Claimant appealed the ALJ's decision finding claimant to be an independent contractor of Preferred, and the Board affirmed that finding. The decision to require Shay to pay only 20 percent was not appealed.

After the Board's decision, claimant asked the ALJ to reconsider the aspect of his decision limiting Shay's obligation to 20 percent. The ALJ denied the request to order Shay to pay 100 percent and reaffirmed his previous ruling on this question. Claimant now appeals the decision to limit Shay to 20 percent. Respondent contends the statute relating to multiple employment, K.S.A. 44-503a, applies because claimant is self-employed in the work she does for Preferred. Respondent asks the Board to affirm the ALJ's decision.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Board concludes the issue raised in this appeal is not a jurisdictional issue, the Board has no jurisdiction over the issue raised, and the appeal should be dismissed.

On appeals from preliminary hearing orders, the Board has limited jurisdiction. The Board's jurisdiction is limited to review of contentions that the ALJ has exceeded his/her jurisdiction. In K.S.A. 44-534a, the legislature designated certain issues as jurisdictional issues. These include findings with regard to whether claimant suffered an accidental injury, whether the injury arose out of and in the course of employment, whether notice is given or claim timely made, or whether certain defenses apply. The issue raised in this appeal is not one listed in K.S.A. 44-534a and is not otherwise a jurisdictional issue. The Board, therefore, does not have authority to review this issue at this stage of the proceedings.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the appeal of the Order entered by Administrative Law Judge Jon L. Frobish on April 6, 2000, should be, and is hereby, dismissed.

## IT IS SO ORDERED.

| Dated this day of June 2000 |
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### **BOARD MEMBER**

c: Stephen J. Jones, Wichita, KS Warren R. Southard, Wichita, KS Jon L. Frobish, Administrative Law Judge Philip S. Harness, Director